

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

R. WAYNE JOHNSON

FILED

CIVIL ACTION

DEC - 2008

v.

MICHAEL E. KUNZ, Clerk

TWO UNKNOWN, U.S. MARSHALS

By ~~Dep. Clerk~~

NO. 08-5522

M E M O R A N D U M

SHAPIRO, J.

DECEMBER 4, 2008

Plaintiff, an inmate, is seeking to bring a civil action without prepayment of fees. Pursuant to 28 U.S.C. § 1915(g), a prisoner who on three or more prior occasions while incarcerated has filed an action in a federal court that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted, must be denied in forma pauperis status unless he was in imminent danger of serious physical injury at the time that the complaint was filed. Abdul-Akbar v. McKelvie, 239 F.3d 307 (3d Cir.), cert. denied, 533 U.S. 953 (2001).

There are no allegations in plaintiff's complaint that would suggest that he was in imminent danger of serious physical injury at the time that this action was filed. Furthermore, prior to the filing of the instant case, plaintiff filed civil actions in the United States District Court for the Southern District of Texas, which were dismissed as frivolous or for failure to state a claim upon which relief may be granted.¹

¹ The following civil actions were dismissed as frivolous or for failure to state a claim upon which relief may be granted by the United States District Court for the Southern District of Texas: (1) Civil Action No. 2:03-CV-0013 was dismissed as malicious and for failure to state a claim upon which relief may be granted on April 15, 2003; (2) Civil Action No. 4:95-CV-0068

Accordingly, plaintiff's motion to proceed in forma pauperis will be denied. An appropriate order follows.

was dismissed as frivolous on August 27, 1995; and (3) Civil Action No. 4:95-CV-0064 was dismissed as frivolous on May 23, 1995.

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O R D E R

AND NOW, this 5th day of December, 2008, in
accordance with the accompanying memorandum, IT IS HEREBY ORDERED
that:

1. Plaintiff's motion for leave to proceed in forma pauperis is DENIED pursuant to 28 U.S.C. § 1915(g);
2. The Clerk of Court shall mark this case **CLOSED** statistically.

BY THE COURT:


NORMA L. SHAPIRO, J.